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SYMPOSIUM/8

DELIBERATIVE DESIGN FOR PUBLIC ENGAGEMENT IN DECISION-MAKING PROCESSES

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1. The art and craft of inclusive policy decisions

The discussion begins by highlighting some aspects of Luigi Bobbio's distinctive contribution to deliberative policy-making (Hajer, Wagenaar 2003), which advocates approaches, techniques and methods for inclusive decision-making (Bobbio 2004) according to the clearly value-oriented thesis that inclusive decision processes in complex contemporary societies foster democratic governmental policy-making and the effectiveness of public choices.

The author's focus on deliberative democracy lies within the sphere of policy analysis that likens the construction of public policy to the goal of public decision-making. This position is coherent with the disciplinary tradition of political analysis, largely established and related to a well-rooted political culture in Italy. This tradition emphasizes the "decision" as the basic stage for the political process, analytically disjointed from implementation taken as the effective and concrete execution of decisions. Even in common discourse, public policies are socially understood as decisions and rarely as implementing actions. One of the consequences is a kind of analytical "hyper-attention" to the problem of the decision in and of itself: its context, location, and effectiveness. This explains both

why the question of how to improve the democratic quality of the political system and how to democratize public policy is translated into how to improve public decisions, as well as why such a challenge is addressed through developing theories like decision-making models and new instruments and methods for public deliberation, separating policy design from implementation.

Against this background, two valuable aspects of Bobbio's work - relating to deliberative democracy and inclusive decision-making - have been quite innovative within the Italian tradition of political studies.

On the one hand, the author left us with robust thinking and numerous empirical case studies regarding participatory and deliberative decision processes (Dente, Bobbio, Morisi, Fareri 1990; Bobbio 1994, 1996; Bobbio e Zeppetella 1999; Bobbio 2004, 2005, 2013, 2017). His analysis is characterized by a policy approach and prevalent focus on the urban and metropolitan scales.

On the other, he was engaged in experimental policy design and, more specifically, in the development of policy instruments for deliberative policy-making and conflict management. His involvement in drafting the Regional Law promoting local participatory processes and public debate promoted by the Tuscan Regional government in the mid '90s is a good example of his interest in enhancing forms of deliberative policy-making.

From this perspective, he became a beacon, especially for young scholars and professionals in Italy. His was a critical voice in seeking to promote an understanding of conflict as a resource for democracy along with a focus on deliberative design for conflict resolution and public engagement. He imagined a specific role for policy analysis in policy design and explored possible types of mediation that could be successful in facilitating socio-institutional problem solving.

Luigi Bobbio supported the value of professional practice and technical expertise; on many occasions, he provided expert advise in cases of dispute resolution within policy decision processes. Against the backdrop of the established tradition of professionals who, with their 'clinical gazes' are detached from and untouched by the social problems of people – with the presumption that technical neutrality should be preserved to guarantee the objectivity of analysis and evaluation, resulting in the scientific legitimation of the expert role – Bobbio embraced Lindblom's criticism of the rational public choice approach. This approach puts as much distance as possible between expert rational analysis and the rationality of values (Lindblom 1990). Rational choice presumes that context-dependent knowledge refers to ordinary social knowledge and the emotional sphere to the detriment of expert evaluation, the legitimation of which is based on scientific and professional knowledge and the ability to generalize and theorize. His invitation to professional facilitators in their role as mediators of public controversy, or as counselors in

processes of public engagement was to work with passion, through learning and role-playing, in the sense of becoming "equally close to" more than "equally distant from" participants' points of view and emotional expressions: just being interactive. This suggestion is coherent with a policy approach that allows experts to address a problematic situation without losing their technical and professional prerogatives, gaining knowledge of actors' cognitive frameworks, beliefs, systems of values, and preferences as fundamental elements in disagreements, problem definition and solutions, and often as sources of controversy.

The 'inclusive decision argument' is, in and of itself, not new to democratic theory. Important scientific literature agrees upon the fact that it responds to a decision-making strategy, which considers open and flexible processes to be more fruitful in Western democratic public policy. This facilitates the confrontation and convergence of diverse viewpoints through the involvement of a plethora of subjects: in concrete terms, all those who, for various reasons and genres of engagement, are interested in a certain problem and are willing to participate in problem-definition and problem-solution processes.

From a historical perspective, the issue of participatory decision-making relating to inclusivity can be traced to the second half of the 20th century when concerns of legitimation by Western democracies arose as the expansion of the welfare state caused an overload on public administrations facing the growth and differentiation of social demands with an increasing disconnect between people in society and people in government. At the time, the inadequacy of representative democracy to understand social needs and meet social change emerged clearly. The multiple response of the "reforming government" with attempts to involve citizens and include stakeholders in decision-making processes and program-policies (Richardson 1983) was a way of seeking out new channels of communications and possible forms of interaction between government and the organized community: individual citizens willing to be listened to and express their voices on matters of public interest. Above all during the 1980s, the inclusiveness of public choices was sustained as a prerogative for consensus building, offered as a deliberate strategy for strengthening the responsiveness and accountability of democratic governments. Political and technical opinions in favor of greater inclusiveness in government decision-making ranged from preventive conflict resolution in cases of the demand for power by social groups, to pedagogical democratic ideals (since an authentic experience of public participation is expected to nurture civic virtues), to techniques of collective inquiry, public *fora* or other spaces for public discussion. Regarding this last point, the underlying assumption is that the intelligence of society regarding social prob-

lem-solving, valued as a feature of self-organizing communities, can be recreated in experimental deliberative settings, technically assisted for fostering discussion and collaboration among selected participants.

One of the main crosscutting themes is the confidence that inclusive policy-making mobilizes resources (in terms of information, social capital, economic and financial assets, etc.) and generates new ideas, opportunities and innovation. On the one hand, open government is expected to be more effective (responsive, accountable) in responding to social needs and able to drive innovation insofar as it values and enables resources (knowledge, skills, mutual learning) for tackling social problems; on the other, conflict and after-the-fact consensus may represent resources in situations of plural interests in which differentiated ideas of the general interest coexist.

In fact, if a feature of the inclusive approach lies in developing positive interactions among participants (meaning interactions geared toward reaching explicit agreements relating to a common understanding), this does not exclude seeking the involvement of conflicting actors on the basis that, in contexts of pluralized interests and publics, heterogeneity and conflict - more than homogeneity and prior consensus - can become resources for finding creative solutions to public problems. In keeping with these assumptions, expert knowledge of policy analysis can be applied to policy design with the specific goal of defining *ad hoc* instruments and methods for drafting deliberative and participatory public policies.

During the 1990s, proposals devoted attention to circumstances of existing explicit or latent conflict in order to recognize the syndrome of the local community vetoing political decisions, the bottom-up mobilization of actors seeking access to the decision-making bargaining table. A problem emerged: How many deliberative arenas reach concrete decisions or effectively influence decisions? Many participatory processes are driven by professionals; they are the technical experts who in fact promote and manage such processes. Governments are not particularly aware, or have little political will to engage in, or inadequate administrative capacity to practically implement process results. For example, the experience of the implementation of regional laws for the promotion of participation in Tuscany (Laws 69/2007 and 46/2013) over the course of a decade has shown how local administrations entrusted the conception and management of local participatory processes (funded by those laws) to outside professionals. This resulted in scant development of the institutional capacity (regarding participation) of local administrations as well as a certain fragility of the commitments stemming from participatory practices, giving way to problems of their effectiveness.

Later, with the turn toward the collaborative approach, attention gradually shifted from inclusive participation to the co-design and co-production of public policy: another aspect of inclusiveness relating to integrated approaches to policy construction.

2. Policy-design experiments. About deliberative arenas as a third possibility

Recently Bobbio (2017) proposed the deliberative arena as a third possibility that might prevent the risks of the effects of hyper-politicization and de-politicization which divide those scholars who question the degree of democracy of deliberative process and model design tested in public decision-making processes on the assumption that democratic politics is the *only* possibility.

The deliberative arena in the Bobbio formulation (Bobbio 2002) is an example of a concrete inclusion strategy by means of the "soft institutionalization" of a policy tool introduced at a certain point in the decision process to structure interactions among participants. The deliberative arena enables connections and exchanges among a multiplicity of actors differently involved in a public decision problem and animated by desires, beliefs and interests that may be very divergent. From this perspective, deliberative arenas attempt to gather together and organize a variety of political, social and economic positions so as to favor discussion among more or less institutionalized interests. Deliberative arenas are intention contexts for collective sense making (Weick 1995) and mutual partisan adjustment (Lindblom 1965), responding to a strategy of inclusion in which the quality of participant consensus/adhesion to a decision (Bobbio 2003) is fundamental. At the same time, deliberative arenas are designed according to principles of flexible regulation that can manage and contain the transactional costs of open participation, such as the side effects of multiple participant interactions.

Indeed, the deliberative arena contributes to policy change to the extent that it is inclusive and effective.

But, in concrete decision-making situations, what is meant by inclusion regarding the involvement of the actors? Who are the important participants/actors? How can they be mapped?

The criterion of participant selection in structuring a deliberative arena is not the functional representativeness of "explicit stakeholders" and "role actors" within an established system of representation and interactions (those who, so to speak, play a specific function in the process having formally established and pre-defined roles and/or acting according to accepted well-defined interests).

The deliberative arena takes the form of a place open to average citizens, organized groups, more or less politicized interests, and professionals having eventually conflicting positions who are activated/mobilized around the issue at hand. They might be *institutional* as well as *de facto* actors seeking to participate in problem definition and solution. This osmotic space, which the author refers to as a "grey area" (Bobbio 2017), is a political feature of deliberative arenas expressing a vision of the democratic nature of public decisions and also implicitly introducing a fundamental point, which is extremely significant in terms of its political effects (although Bobbio does not assume it theoretically): the *constitution of the public* in collective decision making.

This last point should be clarified: notwithstanding the frequent and more or less implicit references to constructivist approaches to policy analysis and the basic assumption of Lindblom's incrementalism in the toolboxes of policy analysis and design, the author's arguments remain quite distant from democratic theory and the American and French schools of pragmatism.

As an exemplification, for Bobbio, Lindblom's core arguments regarding the *self-organizing of societies for social problem solving* (Lindblom 1965), the nexus between *social inquiry and change* (Lindblom 1990), are not key points in the comprehension of democratic policy-making. As previously mentioned, in reference to the conceptualization of deliberative arenas (Bobbio 2002), the recognition of the existence of *plural publics*, notably a core argument in Deweyan democratic theory, is not explored in terms of *the process of constitution of a public* which is Dewey's true innovative contribution to empirical democratic theory (Dewey 1927). This last matter, central to the pragmatist line of democratic theory centered on the social construction of democracy, remains outside the thinking of the author although deliberative arenas are intended in a twofold way: as policy design experiments which attempt to (re)produce the dynamics of interactive social processes in a structured setting and as analytical constructs used to describe existing "mini-publics" formed by people galvanized around an issue.

Bobbio (2017) calls the deliberative arenas mini-publics, but, in the two cases of deliberation he mentions, the publics are different from one another. In one case (the public debate regarding an urban thoroughfare in Genoa, 2009), the 'public' is constituted by applying specific criteria for participant selection since the deliberative arena was designed as an institutional experiment for public decision-making (Moro 2010). In another case (the British Columbia Citizen Assembly on electoral reform in Vancouver, 2004), the 'public' is pluralized insofar as it is constituted partly through selection procedures and partly as the outcome of conflict and of citizen activation around a controversial matter (those labeled 'the opponents'). In this case, the public is made up of people motivated to act to concretely tackle a problem (differently perceived and defined). Nevertheless,

Bobbio basically leaves the public nature of the two decisions unquestioned and concentrates his attention on the arenas, which, from his point of view, can be evaluated in terms of their political or unpolitical nature.

More in general, another problematic aspect is that the deliberative arenas the author refers to (Bobbio 2002, 2017) represent a vast repertory of cases characterized by a heterogeneity of methods and techniques (citizen juries, citizen assemblies, deliberative polls, consensus conferences, French débats publics on infrastructure, participatory budgeting). They are different in terms of the types of participation and the effective space for deliberation (the intensity/degrees of confrontation, dialogue). The repertory implies stretching the concept of the notion of deliberation.

Another distinctive aspect is that the author does not discuss the implications of the innovative traits of deliberative democracy in the literature, meaning attention to the formation and transformation of individual and collective preferences and volitions, which can eventually come about through interaction as a by-product of the process of interaction (Wildavsky 1987, Mastropaolo 2001). In these terms, deliberative policy-making, as an alternative to rational problem solving and policy analysis of rational public choice models, offers a focus on the dynamics of the social construction of democratic decisions which – paraphrasing Lindblom – is specifically referred to as partisan interaction and mutual adjustment through discussion and argumentation. This angle of the question diverges quite markedly from the Habermas theory of communicative rationality (Habermas 1981) based on an ideal discourse situation, which removes conflict and hypothesizes discussion among peers, thus introducing the necessity for a deliberative setting shaped according to deliberative rules that guarantee equal opportunities to choose and perform discursive acts.

Both points – the formation of a public by the activation of people in social inquiries and plural interaction around problem-processing (Hoppe, 2011) and, related to this, the formation and transformation of people's preferences through mutual (partisan) interaction – illustrate the specific political aspects of deliberative processes and more extensively of public policies, viewed as interactive processes of social problem solving and collective production of common goods.

No doubt the point of view regarding the political character of public deliberation introduced here is very far from the conceptualizations of the democratic politics referred to as the predictable conditions of democracy (as an example: civic virtues as by-products of many factors) and the representative democracy as a mechanism of preferences aggregation, in which attention is centered on formal procedures and dominated by power politics (party decisions and electoral interests) with an ensuing obsession over

consensus, problems of representativeness and legitimacy of political candidates/representatives, the design of new electoral reforms to find solutions, etc.

3. The pendulum of the political and the unpolitical

The essay points out the frequent use of the term "depoliticization" in relation to deliberative democracy (Bobbio 2017). The author reviews a vast scientific literature from the last twenty years, selecting numerous references from authors having different orientations, emphasizing the various depoliticization effects relating to unpolitical aspects of the deliberative expedients deployed in policy-making. It seems that there is substantial consensus regarding the attribution of the depoliticizing capacity of deliberative processes. Although the arguments referred to may be many, their very difference relies on the positive or negative judgment of depoliticization when considering the implications on the democratic nature of decision-making. In this way unpolitical means undemocratic, or the opposite, as it contributes to building democracy ("non democratization without depoliticization"), thus supporting arguments in favor of or against deliberative democracy.

The author agrees implicitly with the definition of politicization (that is, "the political" and "the unpolitical"); he assumes that the concept of politicization in the debate is used in reference to an unequivocal meaning. From his perspective, the numerous references are meant to describe, with different arguments, a similar universe of political/unpolitical features and/or its effects.

After this extensive review, attention turns to Pettit, to whom Bobbio refers as a clear example in the literature of the position sustaining the "unpolitical" nature of public deliberation, as he is openly in favor of the possibility of "depoliticizing" areas of decision-making by instituting *ad hoc* deliberative venues, like *fora* and commissions bringing people together for discussion and information-gathering. In greater detail, Bobbio refers to an article by Pettit published in 2004 emblematically entitled "Depoliticizing Democracy", in which the creation of *fora* for public deliberation that are "freed from the bad influence of politics" (Bobbio 2017, 614) is questioned in terms of its depoliticization effects on democracy. Such venues – and this is the positive aspect– are not "in the hands of politicians" meaning elected representatives (Pettit 2004, 64). The distinctive trait of the proposal is that deliberative character or practice is intended to improve and reinforce the quality of the entire democratic system. Later the discussion turns to the fact that "depoliticizing" as used by Pettit has a different meaning from the term "unpolitical" (and the related opposition unpolitical/political, as presented by Bobbio), which

might be misleading when thinking of the neo-republicanism foundation of Pettit's proposal regarding deliberative democracy.

Delving deeper into the Pettit argumentation in the above-mentioned article might clarify the terms he uses to define the depoliticizing function of structured arenas for public deliberation in relation to the two components that animate the deliberative democracy ideal: the deliberative and the democratic (Pettit 2004, 52). He begins by reflecting upon the numerous areas of decision-making in which democracies have depoliticized decisions boosting the rule of deliberative democracy in public life (Pettit, 2004, 53, 57). Experts and/or citizens participate in these depoliticized *fora* for deliberation. On the one hand, with no political control over the decision, participants can debate and express their views regarding the common good, free from the pressures of electoral interests (for attracting votes), representative government, emotional politics, protected against instrumental uses of moral arguments by party politics. On the other, those in government in situations of conflicting sectorial interests that concern local communities, as in the case of controversial location choices, benefit from deliberative experiments gaining knowledge of "the balance of informed opinion in the society as a whole" (Pettit 2004, 58). A deliberative opinion poll described by Fishkin (1997), for instance, "would enable political debate to operate at a significant remove from the intensity of lobby politics" (Pettit 2004, 58).

But the core argument lies in the second part of the article when he expounds upon a conception of democracy relating to democratic people as autonomous (Pettit, 2004, 58). He then shifts attention to democracy "as a dispensation for the empowerment of public valuation" distancing himself from the conception of democracy "as a regime for the expression of collective will".

The point that Bobbio does not seem to take into account is that the Pettit discussion of the "unpolitical" should be put into the context of neo-republican thought, specifically in coherence with the neo-republican thesis affirming that the formation and reproduction of civic virtue is an essential component of democracy and the distinctive quality of a democratic system. Undeniably, this result is desirable but it is also not predictable; the only way to produce it is to practice democratic participation and direct citizen involvement. Deliberation practices are intended by Pettit as the activation of citizens regarding the merit of problems; they form publics through their mobilization around an issue. From this perspective, the political nature of deliberative and participatory settings lies in the political action of citizens and their activism in social problem solving. The thinking of Pettit can be understood in the previously cited interpretation of the democratic process given by Dewey, relating social activation to a question perceived as the collective interest: the formation of "a public" in relation to a given problem. It is this

very element that substantiates the political nature of participatory action undertaken by citizens.

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